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**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE  
DEFIBILLATORS PRODUCTS LIABILITY  
LITIGATION

MDL No. 05-1708 (DWF/AJB)

Case No: 07-cv-2670

Barbara Carpenter, et al.  
Plaintiff(s)

**MOTION TO WITHDRAW AS  
COUNSEL OF RECORD WITHOUT  
SUBSTITUTION**

v.

Guidant Corporation, et al.  
Defendant(s)

---

**RELATIVE TO PLAINTIFF JAMES GREEN ONLY**

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NOW COMES, undersigned counsel, who hereby moves this Honorable Court to issue an order dismissing Kimberly Lambert and Levin, Papantonio, Thomas, Mitchell, Echsner, and Proctor, P.A. as counsel of record in the above captioned matter. Plaintiff, James Green, has failed to respond to any and all of Counsel's several communication attempts regarding the upcoming deadlines in this case. Counsel has sent letters via Federal Express to Plaintiff's last two known addresses of HC 87 Box 513, Winifrede, WV 25214 and HC 67 Box 513, Winifrede, WV 25214. Undersigned Counsel has also left numerous messages on Plaintiff's answering machine, which have not been responded to. Copies of said letters and proof of signature are attached as Exhibit A. A copy of this motion is also being sent via certified mail to the above listed addresses.

Dated: 6/9/08



Kimberly R. Lambert  
Florida Bar No. 0014479  
Levin, Papantonio, Thomas,  
Mitchell, Echsner, & Proctor, P.A.  
316 South Baylen Street  
Pensacola, FL 32502  
Telephone: 850-435-7013  
Fax: 850-436-6013

# EXHIBIT A



LEVIN • PAPANTONIO  
THOMAS • MITCHELL  
ECHSNER & PROCTOR • P.A.  
ATTORNEYS AT LAW

SCOTT C. BARNES  
BRIAN H. BARR  
M. ROBERT BLANCHARD  
VIRGINIA M. BUCHANAN  
STEPHEN H. ECHSNER  
RACHAEL R. GILMER  
PETER L. KAUFMAN  
KIMBERLY R. LAMBERT  
FREDRIC G. LEVIN  
MARTIN H. LEVIN

STANLEY B. LEVIN  
ROBERT M. LOEHR  
MICHAEL B. LYNCH  
NEIL E. McWILLIAMS, JR.  
Wm. JEMISON MIMS  
CLAY MITCHELL  
R. LARRY MORRIS  
TIMOTHY M. O'BRIEN  
MIKE PAPANTONIO  
MARK J. PROCTOR

TROY A. RAFFERTY  
B. KRISTIAN W. RASMUSSEN, III  
MATTHEW D. SCHULTZ  
AMANDA SLEVINSKI  
MEGHAN M. TANS  
F. JEROME TAPLEY  
LEO A. THOMAS  
LEA MORRIS TURTLE  
BRETT VIGODSKY  
CHRISTOPHER M. VLACHOS

DAVID H. LEVIN  
(1928-2002)

OF COUNSEL:  
ROBERT F. KENNEDY, JR.  
(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)  
STEVEN A. MEDINA

April 9, 2008

Mr. James Green  
HC 67 Box 513  
Winifrede, WV 25214

RE: Guidant Settlement

Dear Mr. Green:

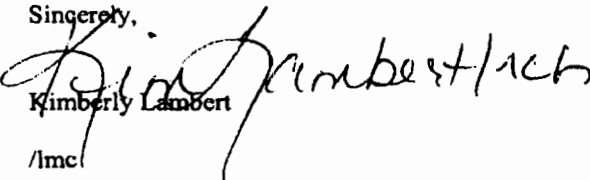
Recently, we mailed to you the Guidant Confidential Release and Claimant's Declaration of Participation. At this time, we have not received your executed documents. Our firm understands and appreciates the stress and anxiety this device and subsequent recall and/or advisory notice has placed on you. However, appreciating your injury, we must consider many other facts and the law when determining how to advise our clients. Prior to recommending this settlement to you, we considered information from mock jury trials, juror opinions regarding our case in chief, case law on the subject matter, expert opinions on the broad scope of injuries, and the knowledge and experience of our firm, along with over 55 other firms throughout the nation. Further, the details of the settlement and all of the negotiation leading up to the settlement were overseen and approved by Judge Frank.

In light of these facts, we believe the settlement is fair and reasonable. However, it is ultimately your decision whether to settle your case or continue with other counsel. Either way, we will respect your decision and will do our best to accommodate your needs.

If your final decision is to accept the settlement, we will need your fully executed release and signed claimant declaration page no later than **Friday, April 11<sup>th</sup>**. If we do not receive your documents by **Friday, April 11<sup>th</sup>**, we will assume that you reject the settlement and we will file a motion to withdraw from your case. In that event, a copy of the motion and your file will be forwarded to you and you must find other counsel to represent you in this matter as soon as possible.

We also ask that you contact us immediately upon receipt of this letter at 1-888-581-4757 as we have made several attempts to reach you by phone.

Sincerely,

  
Kimberly Lambert

/lmc/



Close Window

Track Shipments, FedEx, Kirk's Orders

Print

## Detailed Results

<b>Tracking number</b>	862319924259	<b>Reference</b>	121089
<b>Signed for by</b>	J.GREEN	<b>Delivered to</b>	Receptionist/Front Desk
<b>Ship date</b>	Apr 9, 2008	<b>Service type</b>	Priority Envelope -
<b>Delivery date</b>	Apr 10, 2008 12:14 PM		Direct Signature Required

**Status** Delivered

**Signature image available** [Yes](#)

**Signature Proof of Delivery**

Click **Request copy of signature** to view delivery information for this shipment.

☐ Signature Image

Date/Time	Activity	Location	Details
Apr 10, 2008 12:14 PM	Delivered		
9:05 AM	On FedEx vehicle for delivery	CHARLESTON, WV	
8:27 AM	At local FedEx facility	CHARLESTON, WV	
6:30 AM	At dest sort facility	HUNTINGTON, WV	
4:39 AM	Departed FedEx location	MEMPHIS, TN	
2:40 AM	In transit	MEMPHIS, TN	
1:36 AM	Arrived at FedEx location	MEMPHIS, TN	
Apr 9, 2008 6:44 PM	Left origin	PENSACOLA, FL	
5:54 PM	Picked up	PENSACOLA, FL	



**Subscribe to tracking updates (optional)**

Your name:

Your e-mail address:

E-mail address

Language

Exception updates

Delivery updates

English

☐

English

☐

English

☐

English

☐

Select format: ☒ HTML ☐ Text ☐ Wireless

Add personal message:

Not available for Wireless or non-English characters.

☐ By selecting this check box and the Submit button, I agree to these [Terms and Conditions](#)



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

June 4, 2008

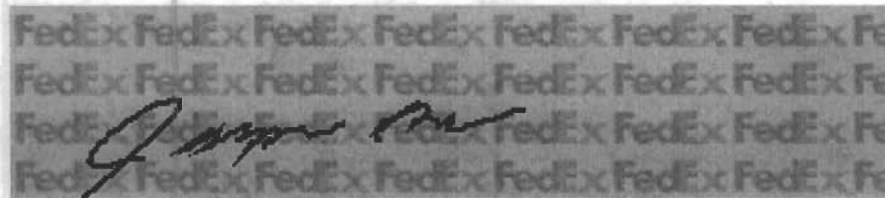
Dear Customer:

The following is the proof-of-delivery for tracking number **862319924259**.

---

**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivery location:</b>	HC 67 BOX 513 25214
<b>Signed for by:</b>	J.GREEN	<b>Delivery date:</b>	Apr 10, 2008 12:14
<b>Service type:</b>	Priority Envelope		



---

**Shipping Information:**

<b>Tracking number:</b>	862319924259	<b>Ship date:</b>	Apr 9, 2008
<b>Recipient:</b>	MR JAMES GREEN HC 67 BOX 513 25214 US	<b>Shipper:</b>	KIM LAMBERT PEN 325025996 US
<b>Reference</b>			121089

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service  
1.800.GoFedEx 1.800.463.3339



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THOMAS • MITCHELL  
ECHSNER & PROCTOR • P.A.  
ATTORNEYS AT LAW

SCOTT C. BARNES  
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STEPHEN H. ECHSNER  
RACHAEL R. GILMER  
PETER L. KAUFMAN  
KIMBERLY R. LAMBERT  
FREDRIC G. LEVIN

MARTIN H. LEVIN  
STANLEY B. LEVIN  
ROBERT M. LOEHR  
NEIL E. McWILLIAMS, JR.  
Wm. JEMISON MIMS  
CLAY MITCHELL  
R. LARRY MORRIS  
TIMOTHY M. O'BRIEN  
MIKE PAPANTONIO

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TROY A. RAFFERTY  
MATTHEW D. SCHULTZ  
AMANDA SLEVINSKI  
MEGHAN M. TANS  
LEO A. THOMAS  
LEA MORRIS TURTLE  
BRETT VIGODSKY  
CHRISTOPHER M. VLACHOS

DAVID H. LEVIN  
(1928-2002)  
OF COUNSEL  
ROBERT F. KENNEDY, JR.  
(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)

**SENT VIA FEDERAL EXPRESS**

April 24, 2008

Mr. James Green  
HC 87 Box 513  
Winifrede, WV 25214

RE: Guidant Settlement

Dear Mr. Green:

Recently, we mailed to you the Guidant Confidential Release and Claimant's Declaration of Participation. At this time, we have not received your executed documents.

Recently, the court has extended the previous deadline for submission of these documents. In light of that ruling, if your final decision is to accept the settlement, we will need your fully executed release and signed claimant declaration page no later than **Friday, May 2<sup>nd</sup>**. If we do not receive your documents by **Friday, May 2<sup>nd</sup>**, we will assume that you reject the settlement and we will file a motion to withdraw from your case. In that event, a copy of the motion and your file will be forwarded to you and you must find other counsel to represent you in this matter as soon as possible.

We also ask that you contact us **immediately** upon receipt of this letter at 1-888-581-4757 as we have made several attempts to reach you by phone.

Sincerely,

*Kimberly Lambert* /s/  
Kimberly Lambert

/lmc





Close Window

Track Shipments FedEx Kinko's Orders  
Detailed Results

Print

Select another track: 862319924329 Next

<b>Tracking number</b>	862319924329	<b>Reference</b>	121089
<b>Signed for by</b>	J.GREEN	<b>Delivered to</b>	Residence
<b>Ship date</b>	Apr 24, 2008	<b>Service type</b>	Priority Envelope -
<b>Delivery date</b>	Apr 29, 2008 11:21 AM		Direct Signature
			Required
<b>Status</b>	Delivered		
<b>Signature image available</b>	Yes		

**Signature Proof of Delivery**Click **Request copy of signature** to view delivery information for this shipment.☐ Signature Image

Request copy of signature

Date/Time	Activity	Location	Details
Apr 29, 2008	11:21 AM	<b>Delivered</b>	
	8:52 AM	On FedEx vehicle for delivery	CHARLESTON, WV
Apr 28, 2008	5:47 PM	At local FedEx facility	CHARLESTON, WV
	12:24 PM	Delivery exception	CHARLESTON, WV Customer not available or business closed - Signature required
	9:04 AM	On FedEx vehicle for delivery	CHARLESTON, WV
Apr 25, 2008	4:59 PM	At local FedEx facility	CHARLESTON, WV
	11:29 AM	Delivery exception	CHARLESTON, WV Customer not available or business closed - Signature required
	8:52 AM	On FedEx vehicle for delivery	CHARLESTON, WV
	8:22 AM	At local FedEx facility	CHARLESTON, WV
	5:28 AM	Departed FedEx location	MEMPHIS, TN
	6:05 AM	At dest sort facility	HUNTINGTON, WV
	1:02 AM	Arrived at FedEx location	MEMPHIS, TN
Apr 24, 2008	6:54 PM	Left origin	PENSACOLA, FL
	5:53 PM	Picked up	PENSACOLA, FL

E-mail results

Track more shipments/orders

&lt;&lt; Track summary

Subscribe to tracking updates (optional)

Your name:

Your e-mail address:

E-mail address

Language

Exception updates

Delivery updates

English

☐

English

☐



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

June 4, 2008

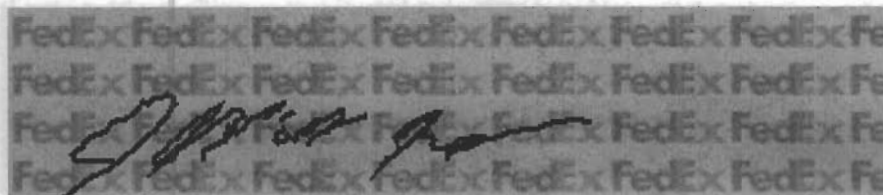
Dear Customer:

The following is the proof-of-delivery for tracking number **862319924329**.

---

**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivery location:</b>	HC 87 BOX 513 25214
<b>Signed for by:</b>	J.GREEN	<b>Delivery date:</b>	Apr 29, 2008 11:21
<b>Service type:</b>	Priority Envelope		



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**Shipping Information:**

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<b>Tracking number:</b>	862319924329	<b>Ship date:</b>	Apr 24, 2008
-------------------------	--------------	-------------------	--------------

**Recipient:**  
MR JAMES GREEN

HC 87 BOX 513  
25214 US

**Reference**

**Shipper:**  
KIM LAMBERT  
LEVIN PAPANTONIO ET AL  
316 S BAYLEN ST STE 400  
PEN 325025996 US  
121089

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ATTORNEYS AT LAW

SCOTT C. HARNES  
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VIRGINIA M. BUCHANAN  
STEPHEN H. ECHSNOR  
RACHAEL R. GILMER  
PETER L. KAUFMAN  
KIMBERLY R. LAMBERT  
FREDRIC G. LEVIN

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CHRISTOPHER M. VLACHOS

DAVID H. LEVIN  
(1928-2002)  
OF COUNSEL  
ROBERT F. KENNEDY, JR.  
(LICENSED ONLY IN NEW YORK)  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)

May 8, 2008

Mr. James Green  
HC 67 Box 513  
Winifrede, WV 25214

Re: Guidant Settlement

Dear Mr. Green:

On May 2<sup>nd</sup>, we received notice from the Court that the deadline to participate in the Guidant **settlement has been extended to Monday, May 19, 2008**. As of today, we have not received your settlement documents, despite our efforts to provide them to you at least twice. Therefore, you have effectively rejected the settlement. As discussed, we are closing your file at this time and will take no further action on your behalf.

Further, we have enclosed a copy of the Motion to Withdraw that will be filed in your case next week. If you decide to pursue your case outside the settlement, you must act **immediately** to contact another attorney, as the Court will issue deadlines applicable to your case in the near future. If you do not comply with these deadlines, the Court could dismiss your case. **Thus, do not delay in seeking other representation immediately.**

If you receive this letter and decide that you would like to participate, you must forward your settlement documents to Elizabeth Peterson, 651 Nicollet Mall, Ste. 501, Minneapolis, MN 55402, so that they are received by Monday, May 19, 2008. Also, you should locate a local facility to assist you with emailing your executed documents to [paj@juneaulaw.com](mailto:paj@juneaulaw.com); [eap@zimmreed.com](mailto:eap@zimmreed.com); [declarations@shb.com](mailto:declarations@shb.com); [guidant@analytics-inc.com](mailto:guidant@analytics-inc.com); and [GuidantMDL@mnd.uscourts.gov](mailto:GuidantMDL@mnd.uscourts.gov). **These documents must be received on Monday, May 19, 2008 to be considered timely.**

Again, this letter will confirm that you have failed to respond to our numerous requests for your settlement documents and have effectively rejected the settlement. Your file is now closed with our office. We wish you the best of luck in the future and regret that we were unable to resolve this matter for you.

Sincerely,



Kim Lambert

/lmc  
Enclosure



Close Window

Track Shipments/FedEx Kinko's Orders

Print

## Detailed Results

<b>Tracking number</b>	791063065808	<b>Reference</b>	121089
<b>Signed for by</b>	C.GREEN	<b>Destination</b>	Winifrede, WV
<b>Ship date</b>	May 9, 2008	<b>Delivered to</b>	Residence
<b>Delivery date</b>	May 13, 2008 11:28 AM	<b>Service type</b>	FedEx 2Day Envelope - Direct Signature Required
		<b>Weight</b>	0.5 lbs.

**Status** Delivered**Signature image available** Yes**Signature Proof of Delivery**Click **Request copy of signature** to view delivery information for this shipment.

Signature Image

[Request copy of signature](#)

<i><b>Date/Time</b></i>	<i><b>Activity</b></i>	<i><b>Location</b></i>	<i><b>Details</b></i>
May 13, 2008	11:28 AM Delivered	Winifrede, WV	
	8:39 AM On FedEx vehicle for delivery	CHARLESTON, WV	
May 12, 2008	9:07 AM At local FedEx facility	CHARLESTON, WV	Package not due for delivery
May 10, 2008	8:31 AM At local FedEx facility	CHARLESTON, WV	
	8:31 AM At local FedEx facility	CHARLESTON, WV	Package not due for delivery
	5:45 AM At dest sort facility	HUNTINGTON, WV	
May 9, 2008	4:10 AM Departed FedEx location	MEMPHIS, TN	
	7:52 PM Left origin	PENSACOLA, FL	
	6:08 PM Package data transmitted to FedEx		
	5:31 PM Picked up	PENSACOLA, FL	

[E-mail results](#)[Track more shipments/orders](#)**Subscribe to tracking updates (optional)****Your name:****Your e-mail address:****E-mail address****Language****Exception updates****Delivery updates**

English

☐

English

☐

English

☐

English

☐**Select format:** ☒ HTML ☐ Text ☐ Wireless**Add personal message:**



FedEx Express  
Customer Support Trace  
3875 Airways Boulevard  
Module H, 4th Floor  
Memphis, TN 38116

U.S. Mail: PO Box 727  
Memphis, TN 38194-4643  
Telephone: 901-369-3600

June 4, 2008

Dear Customer:

The following is the proof-of-delivery for tracking number **791063065808**.

---

**Delivery Information:**

<b>Status:</b>	Delivered	<b>Delivery location:</b>	HC 87 BOX 513 Winifrede, WV 25214
<b>Signed for by:</b>	C.GREEN	<b>Delivery date:</b>	May 13, 2008 11:28
<b>Service type:</b>	FedEx 2Day Envelope		

A rectangular area containing a handwritten signature "Carol Green" in black ink. The background of this area is a repeating pattern of the FedEx logo.

---

**Shipping Information:**

<b>Tracking number:</b>	791063065808	<b>Ship date:</b>	May 9, 2008
		<b>Weight:</b>	0.5 lbs.

**Recipient:**  
James Green  
HC 87 Box 513  
Winifrede, WV 25214 US

**Shipper:**  
Lisa McLemore  
Levin Law Firm  
316 South Baylen Street  
Pensacola, FL 32502 US

**Reference**

121089

Thank you for choosing FedEx Express.

FedEx Worldwide Customer Service  
1.800.GoFedEx 1.800.463.3339

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**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE  
DEFIBILLATORS PRODUCTS LIABILITY  
LITIGATION

MDL No. 05-1708 (DWF/AJB)

Case No: 07-cv-2670

Barbara Carpenter, et al.  
Plaintiff(s)

**CERTIFICATE OF SERVICE**

v.

Guidant Corporation, et al.  
Defendant(s)

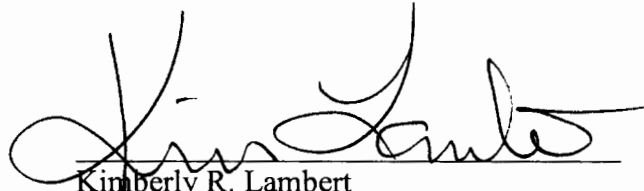
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I hereby certify that a true and correct copy of the foregoing Motion To Withdraw As Counsel Of Record Without Substitution has been filed electronically on this 9th day of June 2008 using the Court's CM/ECF system and sent via USPS Certified Mail to Plaintiff James Green at his last known addresses of:

HC 87 Box 513  
Winifrede, WV 25214

HC 67 Box 513  
Winifrede, WV 25214

Dated: 6/9/08



Kimberly R. Lambert  
Florida Bar No. 0014479  
Levin, Papantonio, Thomas,  
Mitchell, Echsner, & Proctor, P.A.  
316 South Baylen Street  
Pensacola, FL 32502  
Telephone: 850-435-7013  
Fax: 850-436-6013